

FILED

NOT FOR PUBLICATION

NOV 30 2012

UNITED STATES COURT OF APPEALS

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

DAVID RUSSELL MYRLAND,

Defendant - Appellant.

No. 11-30351

D.C. No. 2:11-cr-00057-RSM

MEMORANDUM*

Appeal from the United States District Court
for the Western District of Washington
Ricardo S. Martinez, District Judge, Presiding

Submitted November 13, 2012**

Before: CANBY, TROTT, and W. FLETCHER, Circuit Judges.

David Russell Myrland appeals from his guilty-plea conviction and 40-month sentence for transmission of threatening interstate communication, in violation of 18 U.S.C. § 875. Pursuant to *Anders v. California*, 386 U.S. 738

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

(1967), Myrland's counsel has filed a brief stating there are no grounds for relief, along with a motion to withdraw as counsel of record. Myrland filed pro se supplemental briefs. No answering brief has been filed.

Our independent review of the record pursuant to *Penson v. Ohio*, 488 U.S. 75, 80 (1988), discloses no arguable grounds for relief as to Myrland's conviction. We accordingly affirm Myrland's conviction.

Myrland waived the right to appeal his sentence. Because the record discloses no arguable issue as to the validity of the sentencing waiver, we dismiss Myrland's appeal as to his sentence. *See United States v. Watson*, 582 F.3d 974, 986-88 (9th Cir. 2009).

Counsel's motion to withdraw is **GRANTED**.

AFFIRMED in part; DISMISSED in part.